

### REMARKS

Claims 1-26, as amended, and new claims 27-28 appear in this application for the Examiner's review and consideration. Claims 1 and 21 were amended to clarify the proviso recited therein, while claims 27-28 were added to cover preferred active agents that are recited in the specification. As no new matter has been introduced, these changes and additions should be entered at this time.

Claims 1-23 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that is regarded as the invention.

As noted above, claims 1 and 21 were amended to recite that when the active agent is estrogen, a progestin is not present in the formulation, and when the active agent is progestin, estrogen is not present in the formulation. This change addresses the Examiner's concerns and now clarifies what subject matter is included. Thus, the rejection has been overcome and should be withdrawn.

Claims 1-26 were rejected for obviousness type double patenting over the claims of copending application 10/798,111. In order to expedite the allowance of this application, a terminal disclaimer, with fee provision, is submitted herewith.

In view of the above, all rejections have been overcome so that the entire application is believed to be in condition for allowance, early notice of which would be appreciated. Should any issues remain, a personal or telephonic interview is respectfully requested to discuss the same in order to expedite the allowance of all the claims in this application.

Respectfully submitted,

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